

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GPNE CORP.,)	Case No.: 12-CV-02885-LHK
)	
Plaintiff,)	ORDER GRANTING IN PART AND
)	DENYING IN PART GPNE'S MOTION
v.)	FOR JUDGMENT AS A MATTER OF
)	LAW
APPLE, INC.,)	
)	
Defendant.)	

At the close of Apple's affirmative and defensive cases, GPNE moved for judgment as a matter of law pursuant to Federal Rule of Civil Procedure 50(a) on many issues, including anticipation, enablement, written description, and statutory bars. ECF No. 528. Pursuant to the parties' stipulation, the parties did not file oppositions. ECF No. 514.

On October 20, 2014, Apple's counsel agreed with the Court that a jury instruction on statutory bars should not be given to the jury. *See* Tr. at 1607:16-20. Similarly, Apple's counsel conceded that Apple's only invalidity witness did not testify as to anticipation. *See id.* at 1608:12-1609:13. Furthermore, while Apple's proposed final jury instructions filed on July 15, 2014 (ECF No. 335) included an instruction on enablement, Apple's October 13, 2014 proposed final jury instructions (ECF No. 461) did not.

As a result, the Court gave Apple an opportunity to file an opposition to GPNE's motion for judgment as a matter of law as to anticipation, enablement, written description, and statutory bars

1 by 8:00 A.M. on October 21, 2014, if Apple so chose. ECF No. 533. The Court denied the
2 remainder of GPNE's motion for judgment as a matter of law. *Id.*

3 On October 21, 2014, Apple filed an opposition, which addressed only the issue of written
4 description. ECF No. 535. Apple's opposition did not address anticipation, enablement, or
5 statutory bars. In light of Apple's decision not to oppose GPNE's motion on these issues, Apple
6 counsel's statements on October 20, 2014 about the scope of Apple's invalidity arguments in
7 connection with final jury instructions, and the record in this case, the Court GRANTS GPNE's
8 motion for judgment as a matter of law as to anticipation, enablement, and statutory bars.

9 As to written description, after considering all of the evidence presented at trial and the
10 parties' briefing, the Court hereby DENIES GPNE's motion for judgment as a matter of law as to
11 written description.

12 **IT IS SO ORDERED.**

13 Dated: October 21, 2014

14 
15 LUCY H. KOH
16 United States District Judge